IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.7434 of 2001

Between:

Dr.V.Bhujagendra Rao.

..... PETITIONER

AND

1. State of Andhra Pradesh, rep. by

The Secretary to Government,

Revenue Department,

A.P.Secretariat, Hyderabad, and 5 others.

.....RESPONDENTS

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus directing the respondent-

authorities not to grant any license under the provisions of the A.P.Excise Act, to Respondent No.5, for establishing a bar in the premises bearing No.256, Ward No.13, Gudur Town.

Petitioner, who is a registered medical practitioner, is running a nursing home in the premises bearing No.255, ward No.13, Gudur Town. Respondent No.5, whose building is situated adjacent to the petitioner's nursing home, has applied for grant of IL-24 License to run a bar in the said building. It is the case of the petitioner that opening of bar would create, not only nuisance and discomfort to the patients in his Nursing home, but also unhygienic atmosphere. It is his further case that the proposed shop lies within the prohibited distance as per Rule 6 of the A.P.Excise (Retail Sale Condition) Rules, 1993, and as such, no license can be granted to Respondent No.5. Although petitioner brought this fact to the notice of respondent-authorities, they are contemplating to grant license to the Respondent No.5. Hence, the writ petition.

Heard learned Counsel for the parties and perused the entire material available on record.

A perusal of the averments made in the affidavit filed in support of the Writ Petition goes to show that no license, as such, has yet been granted to Respondent No.5. The application filed by Respondent No.5 for grant of license is still pending before the respondent-authorities. The question as to whether the premises, for which license was sought, is situated within the prohibited distance or not is a matter, which will have to be decided by the respondent-authorities. Petitioner, without raising any objection before the authorities empowered for grant of license, cannot seek a Writ of Mandamus from this Court even before the application for grant of license to Respondent No.5 comes up for consideration. There is no factual foundation for seeking such a relief in anticipation of grant of IL-24 License to Respondent No.5, and therefore, no direction can be issued by way of Mandamus for such relief.

Writ Petition is devoid of merits, and the same, is accordingly, dismissed. No costs.

16-11-2005

LUR